

**IN THE FEDERAL DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
CIVIL DIVISION**

**MARY JONES and;
JOSEPH ALFORD**

Plaintiffs,

HOUSTON COUNTY, ALABAMA;et.al.,

Defendants.

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) **Case No.: 1:06-cv-585**
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NOTICE OF DISMISSAL

COME NOW, Plaintiffs, by and through the undersigned counsel of record and make this Notice of Dismissal of Defendant Mark Culver, Defendant Houston County Commission, Defendant Michael Capshaw, and Defendant Houston County in the above styled cause of action and in response to Documents (13) and (15), and state as follows;

1. Defendant Mark Culver is due to be dismissed from the above styled cause of action.
2. Defendant Houston County Commission is due to be dismissed from the above styled cause of action.
3. Defendant Michael Capshaw is due to be dismissed from the above styled cause of action.
4. Defendant Houston County, Alabama is due to be dismissed from the above styled cause of action inasmuch as Defendant Houston County, Alabama has no control over the law enforcement duties of Defendant Sheriff Lamar Glover. Moreover, the 11th Circuit Court has held as follows:

“... local governments [such as counties] sic can never be liable under §1983 for the acts of those

[officials] whom the local government has no authority to control.” *Turquitt v. Jefferson County*, 137 F.3d 1285 (11th Cir.1998).

5. Further, the Supreme Court, examining the Alabama Code provisions, noted that the respective county had no control over the law enforcement duties and activities of a sheriff. *McMillian v. Monroe County*, 520 U.S. 781,784 (1997).
6. Defendants Mark Culver, Houston County Commission, Michael Capshaw, and Defendant Houston County are due to be dismissed insofar as they have stated by affidavit they have no control over the law enforcement duties and / or acts of Defendant Sheriff Lamar Glover or any other defendant named herein and Plaintiffs are without sufficient information, testimony, and / or facts at this time to dispute such a claim.

WHEREFORE Plaintiffs respectfully submit this Notice of Dismissal of Defendants Mark Culver, Michael Capshaw, Houston County Commission, and Houston County , further, Plaintiffs respectfully pray this Honorable Court to dismiss these defendants without prejudice.

RESPECTFULLY SUBMITTED this the 24th day of August, 2006.

s/ Michael Guy Holton
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CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the foregoing this the 24th day of August, 2006 by electronically filing same with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the below listed counsel:

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